

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LUKE ST. CYR,

Defendant.

8:08CR351

ORDER

Defendant Luke St. Cyr (St. Cyr) appeared before the court on December 31, 2014, on the Petition for Warrant or Summons for Offender Under Supervision (Petition) (Filing No. 134). St. Cyr was represented by Assistant Federal Public Defender Richard H. McWilliams (AFPD McWilliams) and the United States was represented by Assistant U.S. Attorney Douglas R. Semisch (AUSA Semisch). Through his counsel, St. Cyr waived his right to a probable cause hearing on the Petition pursuant to Fed. R. Crim. P. 32.1(a)(1). The Petition alleges probable cause and St. Cyr should be held to answer for a final dispositional hearing before Senior Judge Joseph F. Bataillon.

The government moved for detention. At the time of the hearing, St. Cyr was in the custody of Winnebago Tribal Authorities at the Macy Jail. The government's motion for detention was held in abeyance pending St. Cyr's coming into federal custody. Subsequently, St. Cyr was transferred to federal custody.

The court held a hearing on January 8, 2015. St. Cyr was present with his counsel AFPD McWilliams and the government was represented by AUSA Semisch. A report from the Winnebago Police Department (Exhibit 1) was admitted into evidence. St. Cyr argued he was not the instigator of the fight which injured the victim and his consumption of beer was a minor infraction. While it appears St. Cyr was targeted by the victim and the victim initiated a fight with St. Cyr, St. Cyr concluded the fight with brutality in kicking the victim in the head and body well after the victim was down and unconscious causing serious bodily injury. St. Cyr even boasted about finishing off the victim. Furthermore, while the blood alcohol level of St. Cyr tested relatively low, St. Cyr had violated his conditions of supervised release by consuming alcohol immediately before the incident. Given St. Cyr's criminal history, I find St. Cyr has failed to carry his burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to

the community. St. Cyr should be detained pending a dispositional hearing before Senior Judge Joseph F. Bataillon.

IT IS ORDERED:

1. A final dispositional hearing will be held before Senior Judge Joseph F. Bataillon in Courtroom No. 3, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at 2:00 p.m. on February 26, 2014**. Defendant must be present in person.

2. Defendant Luke St. Cyr is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;

3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and

4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 8th day of January, 2015.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge